



Jammu and Kashmir State information Commission
(Constituted under The Right to Information Act, 2009)
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Old Assembly Complex, Srinagar. 0194-2484269, 2484262
www.jksic.nic.in

File No: SIC/K/Comp/16/2013
Decision No: SIC/K/Comp/16/2013/34

Title: Fayaz Ahmad Pir v/s DFO Kralpora,
s/o Abdul Ahad Pir, (Respondent)
r/o Hirri Payeen (Kupwara),
(Complainant)

Present: 1. Sh. Fayaz Ahmad Pir (complainant)
2. Sh. Ali Hyder Khan (Range Officer)

Srinagar
16.04.2013

The Commission received a complaint from Shri Fayaz Ahmad Pir s/o Abdul Ahad Pir r/o Hirri Payeen (Kupwara) at its Jammu office on 27.02.2013. As this application pertained to Kashmir wing of the Commission, same was transferred to and received in the Commission on 18.03.2013. The complainant has submitted that he filed application under RTI in the office of DFO Kralpora on 08.12.2012 regarding allotment of timber, wood, sale, criteria for distribution of wood and their serial Nos. in the list and amount credited to the treasury since 2010 but unfortunately the office has not responded to the applicants application so far. Complainant further submitted that he personally visited the same office but nothing concrete has been done and has accordingly requested the Commission for taking appropriate action against concerned officials and information be provided immediately to him.

As per records, the complainant filed an RTI application before DFO Kralpora on 08.12.2012 seeking following information:

1. Total timber wood allotted to Hirri Bala depot during 2010 and serial No. of the persons whose section got operated along with name, parentage and address of the sanction holder.
2. Total timber wood allotted to Bategam depot during 2010 to 2012 along treasury receipt No. of every sanction holder.
3. Timber wood allotted to Hirri Bala during 2010 to 2011 along with name, parentage, address and serial No. of the sanction and treasury receipt of every sanction holder, amount credited into govt. account.
4. Criteria for the sale of timber wood.

The Commission issued a notice to DFO Kralpora under letter dated 26.03.2013 seeking reply/counter statement to the complaint enclosed with the notice, within 10 days and for his appearance in the Commission on 16.04.2013 (11.30 am). However, PIO/DFO neither submitted reply/counter statement nor appeared before the Commission. Shri Ali Hyder Khan, Range Officer Trehgam, appeared before the Commission with an explanation regarding the case but could not provide any evidence regarding disposal of RTI application by PIO/DFO within stipulated time as required under section 7 of the Act. RTI application is neither addressed to Range Officer nor there is any evidence of the RTI application having been transferred to him or his assistance was sought by the PIO/DFO under section 5(5) of the Act. Hence Commission has not taken cognizance of the explanation of Range Officer, in view of the fact that Section 7 of the RTI Act, 2009 casts the responsibility of disposing of application on PIO, which in this case is DFO Kralpora to whom application is addressed.

The complainant appeared before the Commission and submitted that he has not received any communication from the office of DFO till date in response to his RTI application.

In view of above, prima facie it is established that RTI application filed before DFO Kralpora on 08.12.2013 has not been disposed of till date and

therefore provisions of the J&K RTI Act, 2009 have not been complied with. Besides, non submission of reply/counter statement and non appearance of the DFO in response to the notice of the Commission as stated above, prima facie shows total disregard of the officer with regard to the implementation of the Act.

It may be noted that under Section 15 of the J&K RTI Act, 2009 the State Information Commission, while inquiring into any matter under the Act, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, Samvat 1977.

In view of above, the Commission deems it proper to pass following directions: -

1. PIO/DFO Kralpora is directed to dispose of the RTI application pending before him within two weeks from issue of this order as per provisions of Section 7 of J&K RTI Act, 2009.
2. PIO/DFO Kralpora will explain within two weeks from issue of this order: -
 - I. As to why penalty as per provisions of Section 17 of J&K RTI Act, 2009 should not be imposed on him for alleged failure to dispose of RTI application of the complainant within period prescribed under section 7 of the Act.
 - II. As to why the Commission may not invoke the provision of section 15 of J&K RTI Act, 2009 read with Section 32 of CPC Samvat 1977 by for non-appearance and non response to the notice of the Commission, thus showing willful disregard of the Commission.

Registry to list the case accordingly.

Sd/-
(Nazir Ahmed)
State Information Commissioner

Copy to the: -

1. Principal Chief Conservator of Forests, J&K.
2. DFO Kralpora.
3. Shri Fayaz Ahmad Pir s/o Abdul Ahad Pir r/o Hirri Payeen (Kupwara).

(Mohammad Shafi)
Assistant Registrar,
J&K State Information Commission